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10/654,412	09/03/2003	Bindu Rama Rao	14118US02	5466

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EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2193

MAIL DATE	DELIVERY MODE
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08/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/654,412

Applicant(s)

RAO ET AL.

Examiner

John Chavis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10-12, 14, and 18-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Spencer et al. (20030131226). The previous action is hereby repeated with responses to the applicant's remarks in **bold** lettering.

Claims

Claim 10. A method of generating update packages for updating software in a mobile electronic device ~~capable of employing the component architecture platform (CAP) framework,~~ the method comprising:

retrieving an existing... and an ...updated version of... code...;

determining which program components to modify;

generating an update package having modules corresponding to those program components to be modified; and

Spencer

See the title, abstract, fig. 1 and sect. 0001.

See sects. 0008-0009.

See sect. 0030, which detects currently installed software and firmware components and schedule downloads, such as version upgrades.

See the missing components and older version of components which are transferred by the configuration manager in sect. 0040.

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generating an associated reference
lookup table having entries
corresponding to those program
components to be modified...

The reference lookup table is
considered represented by the
"configuration list" in sect. 0040.

The applicant lists a generic response that the entire claim has not been taught by Spencer, in the third paragraph under his response to the 102 rejection on page 7. Each of those features have been addressed above. Then, he indicates that the specific portion of retrieving an existing code and an updated version of the code has not been taught; however, although the feature is not cited in the same manner as the applicant, the feature is considered inherent to enable comparisons to determine missing components, see again sects. 0019, 0030 (retrieves previous version, "existing code", and compare with updated components, "update version") and 0040. Furthermore, it is noted that the applicant claims that two versions of code is retrieved; however, it is not clear that either is used since all the later steps appear to be independent of the two retrieved versions. That is, there is no mention of either version is the steps that follow. The applicant is correct in the Spencer teach preparing a list of missing components; however, in order to properly perform this function, the previous components (previous version) have to be known and the newly added features (updated version) has to be known to determine the differences (missing components). Therefore, it is considered that Spencer inherently acquires (retrieves) both versions to determine the missing components.

The applicant also indicates Spencer teach preparing a list of programs that are required but that Spencer does not teach generating a reference lookup table; however, a lookup table is considered a list of required components. The applicant also indicate that Spencer teach generating a list (lookup table) of programs (components) that are older than an acceptable version (components to be modified). Also, in reference to each entry associating a symbolic reference to a memory address is considered provided by program components located anywhere throughout the program to enable the items to be located for comparison purposes to determine differences. Furthermore, see Spencer's sect 0015 and 0036 (which specifically references the registry database that is checked for a list of installed values, "which may have to be updated").

Claim 11. The method according to claim 10, wherein determining which program components to modify comprises determining program components to be one left unchanged, deleted, added, and modified, and wherein program components left unchanged are not included in the update package.

See the cited portions of claim 10 above, specifically see again sect. 0040.

Claim 12. The method according to claim 10, wherein the update package and the associated reference lookup table modifications are adapted for transfer to an embedded system in the electronic device as one of a single program unit and two different related program units transferred when the electronic device is updated.

See fig. 2 item 230, which is considered to provide for transferring components as a single program unit.

Claim 14. The method of claim 10, wherein the update package comprises information for adding new modules, and further comprising: replacing existing modules with new modules; and updating the associated reference lookup table.

See the cited portions of claim 10 above.

Claims 18-25 are rejected as claim 1 in view of fig. 1 and sect. 0047. The electronic device is considered to consist of the processor and the primary and the secondary memory; since items like the lookup table and the management unit does not create or enable a new device. Furthermore software stored in memory also does not enable a new device and the processor and memories appear to be individual components that do not interact until claim 20. **The claims the Spencer does not teach the reference lookup table management unit; however, the feature is considered taught via Specer's configuration unit and the lookup table feature has been addressed above.**

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13, and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer as applied to claim 10 above, and further in view of Yang (2004/0040020). **The applicant claims that Yang and the present invention was commonly owned;**

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however, it is not clear that the inventions were co-owned at the time of the inventions. That is, no affidavits have been filed in the present application and nothing in the applicant's statements indicates when Bitfone Corporation became a wholly owned subsidiary of Hewlett Packard Corp. Therefore, the previous rejection remains.

Claim 13. The method of claim 10, wherein the update package is adapted to facilitate update by an update agent in the electronic device.

Spencer does not teach the use or an update agent; however, the feature is taught by Yang to Enable firmware updates via an agent to enable a determination of whether the update is appropriate and to assist in configuration of updates. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to utilize the agent in Spencer's system for the same reason.

As per claims 26-32, Spencer does not teach or suggest the feature of executing instructions form a pipeline; however, the feature is considered merely a design choice to enable as established order of execution of components. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to enable executions via a pipeline to ensure that components that require a particular order of execution has its required components loaded as needed, see Spencer's sect. 0004. Furthermore, the "computer environment" is considered an apparatus and therefore, the only components that make up the apparatus are considered the processor. A lookup table and a table management unit are not considered to provide a new apparatus. Furthermore, the applicant lists each of the components (lookup table

and table management unit as being capable of providing some function, which means they actually perform no function; but, have the capability to perform the specified functions. Spencer's configuration list is considered to provide for the lookup table function and the configuration manager in fig. 1 is considered to provide for the management function.

5. Claims 10-12,14, and 18-25 are rejected under 35 U.S.C. 102 (b) as being anticipated by Sharon Peleg, listed as "Sharon", since the first page of the reference appeared to be in first name-last name format as Peleg Sharon without a comma separating the listing (WO0011549).

Claims

Claim 10. A method of generating update packages for updating software in a mobile electronic device capable of employing the component architecture platform (CAP) framework, the method comprising:

retrieving an existing... and an... updated version of... code...;

determining which program components to modify;

generating an update package having modules corresponding to those program components to be modified; and

Sharon

See the title, abstract.

See page 1 line 13-page 2 line 11.

See page 2 lines 9-29.

See the missing components and older version of components which are transferred by the configuration manager in sect. 0040.

The applicant is correct in the Sharon does not have a sect. 0040. However, Sharon does have a title and an abstract and both of those areas were also cited in relations to the

preamble in reference to the generating an update package feature, see the rejection of the preamble above. Sharon teach generating a compact difference result (an update package). The result includes reference entries (modules) with references to other entries (modules) to be modified, utilizing directly or indirectly the modified old or modified new program. Therefore, the rejection remains.

generating an associated reference lookup table having entries corresponding to those program components to be modified...

See page 5 lines 22-29.

The applicant also indicates that this feature is not taught by Sharon the feature is considered taught via the cited portions above and for further emphasis, the applicant should see page 6 (specific the references) and page 11 line 29-page 14 line 24 (specifically the data tables, lookup tables).

Claim 11. The method according to claim 10, wherein determining which program components to modify comprises determining program components to be one left unchanged, deleted, added, and modified, and wherein program components left unchanged are not included in the update package.

See the cited portions of claim 10 above. Also, see page 5 lines 1-9.

Claim 12. The method according to claim 10, wherein the update package and the associated reference lookup table modifications are adapted for transfer to an embedded system in the electronic

See page 26 line 25-page 27 line 6.

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device as one of a single program unit and two different related program units transferred when the electronic device is updated.

Claim 14. The method of claim 10, wherein the update package comprises information for adding new modules, and further comprising: replacing existing modules with new modules; and updating the associated reference lookup table.

See the cited portions of claim 10 above.

Claims 18-25 are rejected as claim 1 in view of page 1 lines 5-15 and claims 16 in view of claim 21. The electronic device is considered to consist of the processor and the primary and the secondary memory; since items like the lookup table and the management unit does not create or enable a new device. Furthermore software stored in memory also does not enable a new device and the processor and memories appear to be individual components that do not interact until claim 20. **The applicant indicates that Sharon does not teach the management unit; however, this is the feature that is considered to enable step (c) in lines 24-29 of page 15. The lookup tables are listed above.**

6. Claims 13 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharon as applied to claim 10 above, and further in view of Yang. **The applicant claims that Yang and the present invention was commonly owned; however, it is not clear that the inventions were co-owned at the time of the inventions. That is, no affidavits have been filed in the present application and nothing in the**

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applicant's statements indicates when Bitfone Corporation became a wholly owned subsidiary of Hewlett Packard Corp. Therefore, the previous rejection remains.

Claim 13. The method of claim 10, wherein the update package is adapted to facilitate update by an update agent in the electronic device.

Sharon does not teach the use or an update agent; however, the feature is taught by Yang to Enable firmware updates via an agent to enable a determination of whether the update is appropriate and to assist in configuration of updates. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to utilize the agent in Sharon's system for the same reason.

As per claims 26-32, Sharon does not teach or suggest the feature of executing instructions form a pipeline; however, the feature is considered merely a design choice to enable as established order of execution of components. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to enable executions via a pipeline to ensure that components that require a particular order of execution has its required components loaded as needed. Furthermore, the "computer environment" is considered an apparatus and therefore, the only components that make up the apparatus are considered the processor. A lookup table and a table management unit are not considered to provide a new apparatus. Furthermore, the applicant lists each of the components (lookup table and table management unit as being capable of providing some function, which means they actually perform no function; but, have the capability to perform the specified functions. Sharon's page 11

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line 29-col. 12 line 15 provides for the lookup table function via his data table and the management function, although not specifically mentioned it would have been obvious to a person having ordinary skill in the art at the time of the invention to utilize the feature in Sharon;s system to control updating of the data entries.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-F, 9:00am-5:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

A handwritten signature in black ink, appearing to read 'John Chavis', with a long horizontal stroke extending to the right.

John Chavis
Primary Examiner AU-2193